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United States Department of Agriculture

BUREAU OF AGRICULTURAL ECONOMICS

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 120

REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION, GRADING, AND CERTI- FICATION OF TOBACCO

Effective August 1, 1930

Under act of Congress approved May 27, 1930 (Public No. 272, 71st Congress)

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

By virtue of authority vested in the Secretary of Agriculture, by the provision in the act of Congress entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1931," approved May 27, 1930 (Public No. 272, 71st Congress), authorizing the establishment of an inspection service for tobacco and other farm products, I, R. W. Dunlap, Assistant Secretary of Agriculture, do prescribe and promulgate the following rules and regulations to be in force and effect on and after August 1, 1930, and as long as Congress shall provide the necessary authority thereof, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 31st day of July, 1930.

[SEAL.]

R. W. DUNLAP,
Assistant Secretary of Agriculture.

REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION, GRADING, AND CERTIFICATION OF TOBACCO

Regulation 1. Definitions

SECTION 1. Words in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

SEC. 2. For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed respectively to mean:

Paragraph 1. The act.—The following provisions of an act of Congress entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1931," approved May 27, 1930 (Public No. 272, 71st Cong.): "For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and/or condition of cotton, tobacco, and fruits and vegetables, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture

may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That certificates issued by the authorized agents of the department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained."

Par. 2. Secretary.—The Secretary or Acting Secretary of Agriculture of the United States.

Par. 3. Department.—The United States Department of Agriculture.

Par. 4. Bureau.—The Bureau of Agricultural Economics of the United States Department of Agriculture.

Par. 5. Person.—Individual, association, partnership, or corporation.

Par. 6. Tobacco.—Unmanufactured tobacco including leaf scrap and strip scrap.

Par. 7. Type.—One of the major divisions of tobacco, as classified by the Secretary, having certain common characteristics which permit of its being divided into a number of related grades.

Par. 8. Grade.—A subdivision of a type according to group, quality, color, and length.

Par. 9. Form.—The stage of preparation of tobacco, such as unstemmed and stemmed as applied to unmanufactured tobacco.

Par. 10. Condition.—The state of tobacco with respect to its moisture content or the order of tobacco expressed by the percentage of moisture it contains.

Par. 11. Lot.—A pile, basket, bulk, package, or other definite unit.

Par. 12. Package.—A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

Par. 13. Official grader.—Employee of the United States Department of Agriculture, or other person authorized or licensed by the Secretary to investigate and certify to shippers and other interested parties the type, grade, form, and/or condition of tobacco.

Par. 14. Inspection certificate.—A certificate of type, grade, form, and condition covering a package of unstemmed or stemmed tobacco.

Par. 15. Grade certificate.—A certificate of type and grade covering a lot of loose or unpacked tobacco in the unstemmed form.

Par. 16. Interested party.—Any person who has a financial interest in the tobacco involved, including warehousemen and other persons who have the tobacco in their custody for sale, the present owner or his authorized agent, and persons to whom or by whom the tobacco has been sold on the basis of the United States standard grades, but not including persons who merely are negotiating for its purchase.

Par. 17. Regulations.—Rules and regulations of the Secretary under the act.

Regulation 2. Administration

SECTION 1. The chief of bureau is charged with the supervision of the performance of all duties arising in the administration of the act.

Regulation 3. Where Service is Offered

SECTION 1. Tobacco may be graded or inspected for the purpose of this act at points indicated in paragraphs 1, 2, and 3 of this section whenever official graders are available, and the tobacco is offered under conditions that permit of its proper examination.

Paragraph 1. Shipping points.—Points at which tobacco is submitted or offered for interstate or foreign shipment, including packinghouses, prizeries, warehouses, and other places where it is handled, kept, or stored.

Par. 2. Designated markets.—Markets or receiving stations designated by the chief of bureau. A list of designated markets will be published, as provided in regulation 8, section 1, and may be obtained from the bureau.

Par. 3. Other points.—Points near a designated market to the extent permitted by the time of the official graders at such designated market.

Regulation 4. Inspection and Grading Service

SECTION 1. The type, grade, form, or condition of a lot of tobacco shall be determined by an official grader after a careful examination by him of the lot or of a representative sample of the lot drawn by an official grader or other

person authorized by the chief of the bureau or his representative to draw a representative sample. In case condition is determined from sample, the sample must be securely inclosed immediately after it is drawn in a moisture-proof container, approved for the purpose by chief of the bureau or his representative.

SEC. 2. *Standards to be used.*—All inspection and grading shall be on the basis of standards promulgated or recommended by the Secretary for tobacco, or, in the absence of such standards, on the basis of tentative standards recommended or approved by the chief or acting chief of bureau.

SEC. 3. *Who may obtain inspection or grading.*—Application for inspection or grading of tobacco under the act may be made by a State or by an interested party, or by any authorized person in behalf of such applicant.

SEC. 4. *How application may be made.*—Application for inspection or grading of tobacco under the act shall be made to the bureau or an official grader and may be made orally or in writing. If made orally the bureau or the official grader may require that it be confirmed in writing.

SEC. 5. *Form of application.*—Application for inspection or grading of tobacco under the act shall be in English and shall include the following information: (a) The date of the application; (b) the designation of the tobacco; (c) the name and post office address of the applicant and of the person, if any, making the application in his behalf; (d) the interest of the applicant (except the State) therein; (e) a statement that the tobacco either (1) has been or is to be offered for interstate or foreign shipment, or (2) has been or is to be received at some designated market or a point which may be conveniently reached therefrom; (f) if the tobacco has been officially inspected or graded previously the application must show (1) by whom it was graded, (2) the date on which inspected or graded, (3) the grade previously assigned by the official grader, and (4) the reason for requesting a regrading; and (g) such other necessary information as the bureau or the official grader may require: *Provided*, That in tobacco warehouses at which a tobacco grading service has been established on application of the warehouseman, the tobacco to be graded may be indicated by such marks or by the absence of mark upon the warehouse ticket as may be approved by the chief of the bureau or his representative.

SEC. 6. *Tobacco to be placed in proper shape for inspection or grading by the applicant.*—The applicant shall cause the tobacco for which an inspection or grading is requested to be made accessible for proper examination and to be so placed as to facilitate the examination thereof. Before an inspection of tobacco in hogsheads or other packages will be made the covering must be removed or opened in a manner prescribed by the grader.

SEC. 7. *When an application may be withdrawn.*—Any application for inspection or grading may be withdrawn by the applicant at any time before the service is rendered upon payment of any expenses incurred in connection therewith as provided in regulation 7, section 5.

SEC. 8. *When an application may be rejected.*—Any application may be rejected (1) for noncompliance with the act or these regulations, or (2) when it is not practical to render the service. All expenses incurred in connection with a rejected application for noncompliance with the act or these regulations shall be paid by the applicant as provided in regulation 7, section 5.

SEC. 9. *Certificates.*—Certificates shall be of two kinds: (1) A complete certificate of type, grade, form, and condition covering a package of tobacco and known as an "Inspection certificate," and (2) a certificate of type and grade only, covering a lot of loose or unpacked tobacco in the unstemmed form and known as a "Grade certificate."

SEC. 10. *Form of inspection certificate.*—Each inspection certificate shall be in English and in a form approved by the chief or acting chief of bureau, and shall show (a) the date of certificate; (b) the location of the tobacco; (c) the kind of package; (d) a number or other symbol by which the package can be identified; (e) the type, grade, form, and condition of the tobacco; (f) a statement to the effect that the certificate is issued under the act, and (g) the name of the official grader.

SEC. 11. *Disposition of inspection certificates.*—The original certificate immediately upon its issuance shall be delivered or mailed to the applicant or a person designated by him. One or more copies shall be filed in the office of the official grader or forwarded to the chief of bureau or his representative. Additional copies may be delivered upon request (a) to the applicant for whom

the grading was done or his order and (b) to interested parties who have purchased or sold the tobacco involved on a basis of the United States standard tobacco grades.

SEC. 12. *Form of grade certificate.*—Each grade certificate shall be in English and in a form approved by the chief of bureau or his representative, and shall show: (a) the date of the certificate; (b) the location of the tobacco at the time the certificate is issued or the name of the warehouse in which the tobacco was graded; (c) the weight of the tobacco or a basket or lot number by which it can be identified; (d) the type and grade of the tobacco; and (e) the name or initials of the grader. A grade certificate may be issued in combination with a warehouse ticket or other identification card which shows a part of the information required in parts (a), (b), and (c). A copy of each grade certificate shall be attached to the lot graded and all copies of the certificate shall become null and void when it is removed therefrom.

SEC. 13. *Disposition of grade certificates.*—One copy of each grade certificate issued shall be placed on or attached to the lot and shall remain so placed or attached during the life of the certificate. One or more copies shall be filed in the office of the official grader or forwarded to the chief of bureau or his representative, and when practical other copies may be distributed to interested parties.

SEC. 14. *Advance information.*—Upon request of an applicant for whom an inspection or grading has been made and certificate issued, all or any part of the contents of a certificate may be telegraphed or telephoned to him at his expense, but no information shall be furnished as to the grade of the tobacco until a certificate showing grade has been issued.

Regulation 5. Appeals

SECTION 1. *When an appeal may be taken.*—Whenever an applicant for whom an inspection has been made or any other interested party believes the type, grade, form and/or condition of a lot of tobacco stated in any inspection certificate is not correct he may file an appeal: *Provided*, (a) That the period for which such certificate was issued, if any specified on the certificate, has not expired; (b) all of the tobacco covered by such certificate is available; (c) the tobacco is accessible for making a proper reexamination; (d) the condition of the tobacco has not undergone any material change; and (e) the identity of the tobacco has not been lost.

SEC. 2. *How to make an appeal.*—An appeal from the grading or any other information covered by an inspection certificate shall be in English, made in writing, and filed with the chief of bureau or an appeal grader designated by him to hear appeals. Such appeal shall show: (a) the date; (b) the name and post-office address of the appellant and of the person, if any, making the appeal in his behalf; (c) the interest of the appellant (except the State) therein; and (d) the reasons for making an appeal. The appeal shall be accompanied by the certificate from which an appeal is taken. The official grader may require the appellant to furnish any other practical and necessary information for the proper consideration of the appeal.

SEC. 3. *When an appeal may be withdrawn.*—An appeal may be withdrawn by the appellant at any time before an appeal certificate is issued upon payment of any expense incurred in connection therewith as provided in regulation 7, section 5.

SEC. 4. *When an appeal may be dismissed.*—If it shall appear to the chief of bureau, or the appeal grader with whom the appeal is filed, that the reasons stated in an appeal are frivolous or unsubstantial, or the act on these regulation has not been complied with, the appeal may be dismissed. When an appeal is dismissed the appellant shall be notified by telegraph or in writing giving the reason for such dismissal. A statement of such action shall be included in the record of such appeal by the officer making the same. All expenses incurred in connection with an appeal prior to its dismissal shall be paid by the appellant as provided in regulation 7, section 5. Upon the dismissal or withdrawal of an appeal any certificate filed therewith shall be returned immediately to the person by whom filed or delivered upon his written order.

SEC. 5. *Who shall pass upon appeals.*—Appeals shall be passed upon by an appeal grader designated for the purpose by the chief or acting chief of bureau.

SEC. 6. Appeal certificate.—When tobacco covered by an appeal has been reviewed by an appeal grader, he shall issue an appeal certificate. Such certificate shall show the findings of the appeal grader and shall be labeled "Appeal inspection certificate." An appeal certificate shall supersede all other certificates for the same lot of tobacco and shall refer specifically to the certificates from which the appeal was made. In all other respects the provisions of these regulations relative to inspection certificates shall apply to appeal certificates.

Regulation 6. Licensed Tobacco Graders

SECTION 1. Any person who shows proper qualifications, who is not interested directly or indirectly in the business of merchandising tobacco, and who passes satisfactorily any test which may be prescribed by the chief or acting chief of bureau, may be licensed by the Secretary to inspect and grade tobacco and certificate the type, grade, form, and/or condition of tobacco under the act. Licenses for such persons shall be countersigned by the tobacco specialist in charge of the tobacco inspection and grading service, or by the supervising tobacco grader under whose direction the licensee is to perform services.

SEC. 2. Any grader's license may be suspended, pending final action by the Secretary, by any official by whom it may be countersigned, whenever such official shall consider such action to be for the good of the service. Within seven days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any evidence he may wish to offer in his behalf.

Regulation 7. Fees and Charges

SECTION 1. The fees and charges to be collected for inspection and grading services performed shall be fixed in accordance with his regulation.

SEC. 2. Fees and charges for services rendered by salaried graders employed exclusively by the Department of Agriculture.—The fees and charges for the inspection and grading of tobacco by salaried graders employed exclusively by the Department of Agriculture shall be regulated according to the conditions under which the services are rendered, and shall represent as nearly as practicable the actual cost of the service.

SEC. 3. Fees and charges for services rendered under cooperative agreements.—Fees and charges for inspection and grading done under a cooperative agreement with a State or other organization shall be in accordance with the terms of such agreement approved by the chief of bureau.

SEC. 4. Fees and charges for appeal grading.—The fee for an appeal inspection shall be three times the fee for the original inspection from which the appeal is taken, plus any charges for travel or other items incurred by the Department of Agriculture in hearing such appeal: *Provided*, That when a material error is found in the inspection from which the appeal is taken, no fee will be charged.

SEC. 5. Fees and charges when applications or appeals are withdrawn or dismissed.—When an application is withdrawn in accordance with regulation 4, section 7, or rejected in accordance with regulation 4, section 8, part (1), or when an appeal is withdrawn in accordance with regulation 5, section 3, or dismissed in accordance with regulation 5, section 4, the applicant or appellant may be required to pay all expenses for travel and other items in connection with such application or appeal prior to such withdrawal, rejection, or dismissal, together with a reasonable amount for the grader's time.

SEC. 6. Payment of fees and charges.—The fees and charges for each inspection or grading, or for each appeal inspection shall be paid by the applicant in accordance with the bill rendered by the officer in charge of the tobacco grading service of the bureau or the local tobacco grader. Such fees and charges may be required in advance by the bureau. Fees and charges for inspection or grading services rendered by paid employees of the Department of Agriculture shall be remitted promptly to "Disbursing Clerk, Department of Agriculture." Fees for inspection or grading services rendered by a licensed grader acting exclusively for the Department of Agriculture, less the percentage thereof which he is allowed by the terms of his contract of employment as compensation for his service, shall be remitted to the disbursing clerk of the Department of Agriculture. Fees and charges for inspection or grading services rendered under a cooperative agreement with a State or other agency shall be disposed of in accordance with the terms of such agreement. The disbursing clerk will

cause to be returned to the person entitled thereto any money remitted in excess of the amount due the United States, and he shall cause to be deposited in the Treasury as miscellaneous receipts all moneys found to be due the United States.

Regulation 8. Miscellaneous

SECTION 1. *Publications.*—Publications under the act and these regulations shall be made in service and regulatory announcements of the bureau and such other mediums as the chief of bureau may from time to time designate for the purpose.

SEC. 2. *Receipt of papers to be recorded.*—Any official of the department receiving any paper, accepted for filing, shall note thereon, or on a record kept for the purpose, the place and date of its receipt.

SEC. 3. *Authority of agents.*—Proof of authority of any person applying for inspection or grading on behalf of another may be required, in the discretion of the officer in charge of the tobacco grading service of the bureau or the local tobacco grader.

SEC. 4. *Old certificates superseded by new certificates.*—When a new certificate or an appeal certificate is issued on a lot of tobacco which has been previously certified, the old certificate shall become null and void and shall not thereafter be used to represent the tobacco described thereon.

SEC. 5. *No certificate to be issued by a person financially interested in the tobacco.*—No certificate or appeal certificate shall be issued under the act by a grader who has either directly or indirectly a financial interest in the tobacco involved or in the firm which owns the tobacco.

SEC. 6. *An identification mark may be required on packages inspected.*—The chief of bureau, in his discretion, may require that an identification mark be placed on each package of tobacco inspected. Such identification mark, if required, shall be composed of any letters, numbers, and/or symbol which he may approve for the purpose and shall be placed on or attached to the package in the manner prescribed by him.

SEC. 7. *Packages inspected may be required to be sealed.*—The chief of bureau, in his discretion, may require all packages of tobacco inspected for foreign shipment to be sealed. If required, each package shall be sealed with such material and in such manner as he may prescribe.

SEC. 8. *Life of certificates may be limited.*—The chief of bureau, in his discretion, may specify a definite period of time for which any certificate issued will be valid. Such periods may vary with the condition of the tobacco at the time it is inspected or graded. If a period for which a certificate is valid is specified by him, such period must be stated on the certificate.

SEC. 9. *Misrepresentation.*—Any misrepresentation or any deceptive or fraudulent practice made or committed by any applicant for inspection or grading may be deemed sufficient cause for debarring the person guilty thereof from any further benefits of the act.



